

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JUDGE DAVID M. GLOVER

DIVISION IV

CA08-1122

April 8, 2009

TOM GASS, Special Administrator of the
Estate of VELTA LEWIS GASS, Deceased
APPELLANT
V.

APPEAL FROM THE BOONE
COUNTY CIRCUIT COURT,
[CV2004-285-1]

QHG OF SPRINGDALE, INC., d/b/a
NORTHWEST MEDICAL CENTER
OF WASHINGTON COUNTY
APPELLEE

HONORABLE ROGER V. LOGAN,
JR., JUDGE
AFFIRMED

Appellant, Tom Gass, special administrator of the Estate of Velta Lewis Gass, his deceased father, appeals from the trial court's grant of summary judgment to appellee, Northwest Medical Center. Appellant's challenge to the grant of summary judgment has two components: 1) there were material issues of fact remaining and therefore summary judgment was not proper; and 2) summary judgments are unconstitutional. We affirm by memorandum opinion. *See In re Memorandum Opinions*, 16 Ark. App. 301, 700 S.W.2d 63 (1985).

Memorandum opinions may be issued in any or all of the following cases:

- (a) Where the only substantial question involved is the sufficiency of the evidence;

- (b) Where the opinion, or findings of fact and conclusions of law, of the trial court or agency adequately explain the decision and we affirm;
- (c) Where the trial court or agency does not abuse its discretion and that is the only substantial issue involved; and
- (d) Where the disposition of the appeal is clearly controlled by a prior holding of this court or the Arkansas Supreme Court and we do not find that our holding should be changed or that the case should be certified to the supreme court.

This case falls within two of the above categories, (b) and (d).

With respect to the trial court's grant of summary judgment to Northwest Medical Center, the trial court's opinion explained clearly and in substantial detail its decision, and appellant has not convinced us that there is a basis for reversal.

With respect to appellant's challenge to the constitutionality of summary judgments, our supreme court has addressed the issue in *Anglin v. Johnson Regional Medical Center*, 375 Ark. 10, ____ S.W.3d ____ (2008), and concluded that Rule 56 of the Arkansas Rules of Civil Procedure is constitutional. The disposition of this case is clearly controlled by that decision, and we do not find that this case should be certified to the supreme court.

We therefore affirm by memorandum opinion pursuant to sections (b) and (d) of our per curiam, *In re Memorandum Opinions*, 16 Ark. App. 301, 700 S.W.2d 63 (1985).

Affirmed.

GRUBER and MARSHALL, JJ., agree.